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*Time-
Dated
Material*

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

STATE AGENCY:

State Board of Equalization

A written comment period has been established commencing on **November 19, 2004**, and closing on **January 3, 2005**. Written comments should be directed to the Fair Political Practices Commission, Attention **Kevin S. Moen, PhD**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written

comments must be received no later than **January 3, 2005**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Kevin S. Moen, PhD**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Kevin S. Moen, PhD**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend

Section 1392.8.1. of the regulations in Title 3 of the California Code of Regulations.

Notice is also given of a written public comment period. Any interested person, or his or her duly authorized representatives, may present statements or arguments in writing relevant to the proposed regulation until 5:00 p.m. on January 5, 2005. Please refer to the contact section of this notice for the contact persons and address information when submitting comments.

A public hearing is not scheduled but will be if any interested person, or his or her duly authorized representative, submits a written request for public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing (if one is requested) or following the written comment period (if no public hearing is requested), the Department of Food and Agriculture, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 47021, subsection (a) of the Food and Agricultural Code requires every operator of a certified farmer's market to remit to the Department of Food and Agriculture, within 30 days after the end of each quarter, a fee (not to exceed sixty cents) equal to the number of certified producer certificates and other agricultural producers participating on each market day for the entire previous quarter. Subsection (b) requires any operator of a certified farmers' market who fails to pay the required fees within the 30-day timeframe to pay a monthly interest charge, to be determined by the Department but not to exceed the maximum amount permitted by law, on the unpaid balance.

On September 10, 2004, Assembly Bill 1726 was chaptered with the Secretary of State and becomes effective January 1, 2005. This bill amended Section 47021, subsection (b) of the Food and Agricultural Code and authorizes the Department of Food and Agriculture to establish and collect a penalty fee, in addition to a monthly interest charge, for markets that are delinquent in paying fees as required by Section 47021, subsection (a) of the Food and Agricultural Code.

Section 1392.8.1 of the California Code of Regulations establishes certified farmers' market fees. The specific purpose of amending Section 1392.8.1 is to amend subsection (2) to include the late penalty fee in the delinquent amount on which interest is accrued monthly and adopt new subsection (3) to establish the late penalty fee amount and criteria in which it will be applied.

FISCAL IMPACT STATEMENTS

The Department has initially determined that these proposed regulations would have no effect on savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department has also initially determined that the proposed regulations do not impose a mandate on local agencies or school districts.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes in the regulations would result in no significant added costs to small businesses affected by these proposed changes. This is based on the fact that the proposed changes merely establish a late penalty fee and will only be applied if required fees previously established by section 47021, subsection (a) are not paid within the appropriate timeframes. The proposed changes meet the needs of both, the industry and the consumer, without requiring substantial changes on the part of industry.

EFFECT ON HOUSING COSTS

The Department has initially determined that the amendment of the proposed regulation would have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has initially determined that the proposed changes would have no significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

ASSESSMENT STATEMENT

The Department has initially determined that the proposed changes in the regulations would not affect the creation or elimination of jobs in California and would neither create nor eliminate or expand existing businesses in California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any significant cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407, 47000, 47001, 47003, 47011 and 47021 of the Food and Agricultural Code, and to implement, interpret, or make specific Section 47002, 47003 47004, 47011 and 47021 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

CONTACT

Inquiries concerning the proposed administrative action may be directed to Sonja Dame or Janice L. Price. Inquiries pertaining to the substance of the proposed regulation should be directed to Janice L. Price. The contact persons may be reached at the Department of Food and Agriculture, Inspection and Compliance Branch, 1220 N Street, Sacramento, CA 95814, (916) 445-2180, fax (916) 445-2427. Written comments may also be submitted via e-mail to jprice@cdfa.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

A complete copy of existing regulations, the proposed changes, and the Initial Statement of Reasons may be obtained upon request from the Department of Food and Agriculture. These documents are available on our website at www.cdfa.ca.gov/cdfa/pendingregs.

In addition, all information, including reports, documentation, and other materials (rulemaking file) related to the proposed action is available upon request from the agency contact persons named in this notice. The Final Statement of Reasons, when available, may also be obtained from the contact persons named in this notice. The text of the proposed regulations with any sufficiently related changes clearly indicated will be made available for 15 days prior to adoption.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Section 4603, Schedule of Charges, by adopting a new subsection (g), pertaining to service charges for the

Postentry Quarantine Program, which is a non-regulatory service provided by the Department to those who request it, in Title 3, Division 4, of the Code of Regulations.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before January 3, 2005.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing State law provides that the Department, for the purpose of enhancing the State's business and trade opportunities, may, upon request, perform non-regulatory services such as diagnostics, inspections and testing relating to nursery stock, plants, seeds, or plant pests and diseases. The Department may also establish charges sufficient to recover its costs for providing non-regulatory services (Food and Agricultural Code, Section 5851). Existing law also provides that the Department may establish, by regulation, a schedule of charges to cover the Department's costs for the specific services it provides. Existing law also provides that regulations establishing charges adopted by the Secretary shall not be subject to review, approval, or disapproval by the Office of Administrative Law (Food and Agricultural Code, Section 5852).

Existing federal regulation establishes the Postentry Quarantine Program and that States may charge to recover their costs for providing inspection and other postentry quarantine services (Code of Federal Regulations, Title 7, Chapter III, Section 319.37-7 [7 CFR § 319.37-7]).

The proposed action will establish Section 4603, Schedule of Charges, subsection (g), Postentry Quarantine Program, the Department's schedule of charges for providing non-regulatory services for the Postentry Quarantine Program. The effect of the proposed regulations will be to provide authority for the Department to recover its costs for providing such requested non-regulatory services and to enable the client that requests the service to understand the Department's costs and billing procedures.

The proposed action does not differ from any existing comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that the proposed adoption of Section 4603(g) does not impose a mandate on local agencies or school districts. The Department also has determined that no savings or increased costs to any State agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to adopt Section 4603(g) pursuant to the authority vested by Sections 407, 5851 and 5852 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes to adopt Section 4603(g) to implement, interpret and make specific Sections 5851 and 5852 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The adoption of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said proposed regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 4. HORSE RACING BOARD

CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO ADD RULE 1843.6. TOTAL CARBON DIOXIDE TESTING

The California Horse Racing Board (Board) proposes to add the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to add Rule 1843.6, Total Carbon Dioxide Testing. The proposed Rule 1843.6 provides that at the direction of the official veterinarian blood samples may be taken from a horse for the purpose of obtaining carbon dioxide (TCO₂) testing. Blood samples may be taken pre-race or post-race from any horse on a facility under the jurisdiction of the Board. Should an owner, trainer, or other person responsible for the horse refuse or fail to permit the taking of a sample, he shall be in violation of Board Rule 1930, Obedience to Security Officers and Public Safety Officers, and the horse will be declared ineligible to race. Rule 1843.6 provides that TCO₂ levels shall not exceed 37.0 millimoles. If the official laboratory reports TCO₂ in excess of the maximum levels, the penalty for administrative purposes shall be considered a Class three-medication violation. Blood samples collected for TCO₂ testing shall not be subject to the provisions of Board Rule 1859.25, Split Sample Testing.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, January 20, 2005**, or as soon after that as business before the Board will permit, at the **Arcadia City Hall, 240 West Huntington Drive, Arcadia, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on January 3, 2005**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Telephone: (916) 263-6397
Fax: (916) 263-6042
Email: HaroldA@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, 19580 and 19582.5 Business and Professions (B&P) Code. Reference: 19581 and 19582, B&P Code.

B&P Code Sections 19420, 19440, 19580 and 19582.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19581 and 19582, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions (B&P) Code Section 19581 provides that no substance of any kind shall be administered by any means to a horse after it has been entered to race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. B&P Code Section 19582 states violations of Section 19581 are punishable as set forth in regulations adopted by the Board. In addition, the Board may classify violations of Section 19581 based upon each class of prohibited drug substances and may provide for the suspension of a license for not more than three years. Board regulations prohibit the administration of any substance within 48 hours of a race except for specifically authorized substances. Alkalizing agents are not among the authorized substances, so their administration would be a violation of Board rules. However, carbon dioxide is natural to the horse, so without catching someone in the act of administering an alkalizing agent within 48 hours of a race, the mere detection of carbon dioxide in equine samples would not in itself indicate wrongdoing. The proposed addition of Rule 1843.6, Total Carbon Dioxide Testing, will permit the Board to differentiate between what is natural to the horse and what is the result of an alkalizing substance by measuring the amount of TCO₂. In addition, the proposed regulation provides a classification of TCO₂ violations for administrative purposes, which would allow for penalties should excessive carbon dioxide be detected in a test sample.

Lactic acid, which is produced by intense exercise, is a factor in causing fatigue. Lactic Acid can be neutralized by the administration of an alkaline substance such as bicarbonate. This has resulted in the use of alkalizing agents, or "milkshakes," which are administered to a racehorse in an attempt to alter the performance of the horse. To determine if alkalizing substances are being administered, the Board proposes to add Rule 1843.6, Total Carbon Dioxide Testing. The proposed addition of Rule 1843.6 will allow for the taking of blood samples for the purpose of obtaining total carbon dioxide (TCO₂) concentrations from any

horse on a facility under the jurisdiction of the Board. Subsection 1843.6(a) states blood samples for TCO₂ testing must be taken at the direction of the official veterinarian by a veterinarian licensed by the Board or a registered veterinary technician licensed by the Board, and under the provisions of Rule 1859, Taking, Testing and Reporting of Samples. This will ensure samples are drawn and handled in accordance with current practice. Blood samples may be collected pre-race or post-race. TCO₂ levels are depressed by exercise, and do not return to "normal" at the same rate in all breeds of horses. It may take up to one and a half hours for TCO₂ levels to recover in thoroughbreds, while standardbred horses may experience a faster recovery. Recovery levels are a factor in determining when test samples will be drawn. Thoroughbred horses are more likely to have test samples taken pre-race, while standardbred horses may have test samples taken post-race. Board Rule 1930, Obedience to Security Officers and Public Safety Officers, provides that no licensee shall willfully ignore or refuse to obey any lawful order issued by the stewards when such order is issued or given in the performance of duty. Under subsection 1843.6(c) any person responsible for a horse who refuses or fails to permit the taking of a test sample is in violation of Rule 1930 and shall have the horse declared ineligible to race. This provides consequences should such persons refuse to cooperate with an agent of the Board. Subsection 1843.6(d) states TCO₂ levels in the blood serum or plasma shall not exceed 37.0 millimoles per liter. This is an established level in several North American racing jurisdictions that regulate TCO₂. Under Subsection 1843.6(d)(3) if the official laboratory reports TCO₂ levels in excess of the maximum, the penalty for administrative purposes shall be considered a Class three-medication violation. Subsection 1843.6 states the provisions of Rule 1859.25 shall not apply to blood samples collected for TCO₂ testing. TCO₂ levels in blood serum or plasma deteriorate while the samples are in storage and begin to decline four days after collection. The time frame dictated by Rule 1859.25 for analysis of a split sample is longer than four. Adherence to this time frame would result in a normal decrease in TCO₂ in the split sample and would not be a true representation of the TCO₂ level present in the horse when the sample was taken.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: An undetermined amount of TCO₂ test samples will be taken at a cost of \$10 to \$12 each.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed addition of Rule 1843.6 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed addition of Board Rule 1843.6

Significant effect on housing costs: none.

The adoption of the proposed regulation will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposed adoption of Rule 1843.6 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. Rule 1843.6 provides that blood samples for the purpose of TCO₂ testing may be taken from any horse entered to race.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative that is considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Telephone: (916) 263-6397
E-Mail: HaroldA@chr.ca.gov

If the person named above is not available, interested parties may contact:

Pat Noble, Regulation Analyst
Telephone: (916) 263-6033
Email: PatN@chr.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text—with changes clearly marked—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's Internet address is: www.chrb.ca.gov.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Uniform Complaint Procedures & Nondiscrimination and Educational Equity

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **9:00 a.m. on Tuesday, January 4, 2004**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on Tuesday, January 4, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, CA 95814
Email: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 200, 221.1, 221.2, 8261, 33031, 35186, 49531, 49551, 54445, 52355, 52451, and 56100(a) and (j), Education Code; Section 11138, Government Code. Reference: Section 51.7(b), Civil Code; Sections 200, 201, 201(g), 210.1, 212.5, 220, 221, 233(e), 260, 17002(d), 17592.72, 33126(b)(5)(A) and (B), 48987, and 49556, Education Code; Sections 11135, 11136, 11138, and 12960, Government Code; Sections 422.5, 422.6 and 11166, Penal Code; Section

1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; 34 CFR 106.1–106.8, 299.10–299.11; and Sections 98210, 98220, 98230, 98250 and 98343, Title 22, California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Board proposes to amend Sections 4600, 4610, 4611, 4620, 4621, 4622, 4630, 4631, 4632, 4633, 4640, 4650, 4651, 4652, 4660, 4661, 4662, 4663, 4664, 4665, 4670, 4671 and add new Sections 4680, 4681, 4682, 4683, 4684, 4685, 4686 and 4687 to Chapter 5.1. Uniform Complaint Procedures, Subchapter 1, in Title 5 of the California Code of Regulations. These sections concern the Uniform Complaint Procedures, a system of processing complaints of unlawful discrimination and alleged violation of federal or state laws or regulations for those activities or programs that receive state or federal funding. These procedures are required under the Federal Code of Regulations, Title 34, Part 299, Subpart F—Complaint Procedures. The new section for these regulations was filed on 8/26/91 and became operative on 9/25/91.

The proposed amendments to the California Code of Regulations are needed to address current terminology in federal and state law; update the procedures for complaint resolution and the specific groups that receive civil rights protections in discrimination complaints according to federal and state law; and, more accurately reflect the complaint process at the local level and the appeal process at the state level. The regulations are updated to reflect investigation operating procedures as directed by current federal compliance regulations. The significant changes include the removal of required mediation and the addition of a sixty-day time period for the Department to issue an Investigative Report following the investigation. Most changes are minor.

The Uniform Complaint Procedures apply to the following programs administered by the Department: (i) Adult Basic Education established pursuant to Education Code sections 8500 through 8538 and 52500 through 52616.5; (ii) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (iii) Migrant Education established pursuant to Education Code sections 54440 through 54445; (iv) Vocational Education established pursuant to Education Code sections 52300 through 52480; (v) Child Care and Development programs established pursuant to Education Code sections 8200 through 8493; (vi) Child Nutrition programs established pursuant to Education Code sections 49490 through 49560; and (vii) Special Education programs established pursuant to Education Code sections 56000 through 56885 and 59000 through 59300.

The Uniform Complaint Procedures also apply to the filing of complaints, which allege unlawful discrimination in any program or activity conducted by a local agency, which is funded directly by, or that receives or benefits from any state financial assistance.

The Williams Case Settlement (September 2004) resulted in a new Education Code Section and these proposed new regulations to implement the law. The Williams Case Settlement addressed complaints of deficiencies at schools related to instructional materials, emergency or urgent facilities, conditions that pose a threat to the health and safety of pupils or staff, and teacher vacancy or misassignment. This type of complaint will first be filed with the principal of the school. A complaint about problems beyond the authority of the school principal shall be forwarded within 10 working days to the appropriate school district official for resolution. These complaints may be filed anonymously, however only a complainant who identifies himself or herself is entitled to a response. The school may choose to have a complaint form. All complaints and responses are public records.

Finally, these Uniform Complaint Procedure regulations also apply to complaints of discrimination. SB 1234 (Kuehl) amended Education Code sections 200 and 220 that will require a change in the Education Equity regulations that prohibit discrimination in educational institutions. Specifically, SB 1234 changed the definition of gender. This change in definition requires an amendment of Title 5. Education, California Department of Education, Chapter 5.3. Nondiscrimination and Educational Equity, Subchapter 1. Nondiscrimination Elementary and Secondary Educational Programs Receiving State or Federal Financial Assistance Article 2. Definitions, Section 4910(k).

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost

impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed regulations would not have a significant adverse economic impact on any business because the regulations only relate to local school districts.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 1346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Judy Reichle, Education Program Consultant
 Categorical Programs Complaints Management
 California Department of Education
 1430 N Street, 6th Floor
 E-mail: jreichle@cde.ca.gov
 Sacramento, CA 95814
 Telephone: (916) 319-0929

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of

this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at

<http://www.cde.ca.gov/re/lr/rr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Judy Reichle, Standards and Assessment Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 319-0929; fax, (916) 319-0972. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Division of Occupational Safety and Health of the Department of Industrial Relations is proposing to take the action described in the Informative Digest/Policy Statement Overview (hereinafter "the Proposed Rulemaking"). Any person interested may present statements or arguments orally or in writing relevant to the Proposed Rulemaking at a hearing to be held in the Training Room at 1515 Clay Street, 13th Floor, Oakland, California on January 10, 2005, between 9:00 and 11:00 a.m. These facilities are accessible to persons with mobility impairments.

Written comments must be received by the Division at its office not later than 5:00 p.m. on January 10, 2005, or must be received by the Division at the hearing. The official record of the rulemaking proceeding will be closed at 5 p.m. on January 10, 2005. Written comments received after that date and time shall not be considered unless an extension of time in which to receive written comments is announced at the public hearing.

The Division may thereafter adopt the Proposed Rulemaking substantially as described below or may modify it if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Authority cited: Labor Code sections 60.5, 6308, 7311.4 and 7314. Reference: Labor Code sections 60.5, 6308, 7311.4 and 7314.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to Labor Code sections 60.5 and 6308, the Division of Occupational Safety and Health ("the Division") of the Department of Industrial Relations is charged with the administration and enforcement of the provisions of the California Occupational Safety and Health Act, (commencing with Labor Code section 6300,) as well as other provisions of law impacting upon the health and safety of employees in the State of California.

In 2002, the California Legislature enacted the Elevators, Escalators, Platform and Stairway Chair

Lifts, Dumbwaiters, Moving Walks, Automated People Movers, and Other Conveyances Law. (Labor Code §§ 7300 *et seq.*; hereinafter "the Act".) The Act covers the permitting, design, erection, construction, installation, alteration, inspection, testing, maintenance, repair, service and operation of specified elevators, escalators and other "conveyances". The Act also requires the certification of certain individuals and businesses who install, inspect, repair or otherwise work with conveyances.

Sections 7311.4 and 7314 authorize the Division to establish fees for the inspection of conveyances, as well as for the certification of businesses and individuals under the Act. All fees promulgated under Sections 7311.4 and 7314 must cover the Division's costs in performing its statutory duties.

The Division has determined that the cost to it in conducting inspections, reviewing applications for certification, and performing other functions necessary to the administration of its conveyance program is \$140.00 per hour. (This hourly rate also incorporates the cost of personnel time spent in general training, travel, meetings and other non-revenue-generating activities which, though not linked to any specific inspection or application, are nonetheless necessary for the administration of the conveyance program.) Consequently, to fund its conveyance program through certification and inspection fees consistent with the legislative mandate, the Division must charge fees based on the number of personnel hours necessary to complete an inspection, or review an application for certification, multiplied by \$140.00. Thus, for example, the \$280.00 per unit fee for re-inspection of escalators and moving walks is based on the Division's determination that it should take two hours to complete such an inspection. By the same token, since the Division has determined that one of its inspectors should spend, on the average, only half an hour re-inspecting a hand elevator, the fee for that service would be \$70.00.

Accordingly, the Division proposes to amend Section 344.30, as follows:

The Division would assign numbers and letters to the subsections of Section 344.30 for ease of reference.

Subsection (a).

The Proposed Rulemaking would amend Section 344.30(a) to reflect that the fees set forth in Subsection 344.30(a) are for re-inspections, periodic inspections and witnessing of periodic tests of an existing installation (collectively referred to as "re-inspections").

In addition, the re-inspection fee for hand dumbwaiters would increase from \$55 to \$70 per unit.

The re-inspection fee for power dumbwaiters (and now material lifts) would increase from \$82 to \$105.00 per unit.

The re-inspection fee for Hand elevators would increase from \$55 to \$70.

The Proposed Rulemaking would fix a fee of \$140.00 per unit for the re-inspection of material lifts with automatic transfer devices.

The fees for re-inspection of power sidewalk elevators and hand-powered man platforms would increase from \$110.00 per unit to \$140.00 per unit.

The fee for re-inspection of escalators and moving walks would increase from \$110.00 per unit to \$280.00 per unit.

The fee for re-inspection of manlifts would increase from \$110.00 per unit to \$140.00 per unit.

The Proposed Rulemaking would delete the subheading "Power passenger or freight elevators:" and would instead add the word "elevator" to subsections (a)(9) through (a)(13) to clarify that all the conveyances referenced in those subsections are elevators. It would also add a new class of elevators to the power passenger or freight elevator classification: namely, rope hydraulic elevators. The fees for re-inspection of direct plunger hydraulic elevators and also roped hydraulic elevators would vary depending on the number of floors the conveyances cover. Up to three stories, the fee would be \$105.00 per unit. The per-unit fee to inspect systems of four stories or more would be \$140.00. The fee for re-inspecting cabled power passenger or freight elevators of up to three stories would be \$140.00 per unit. If the conveyances cover between four and ten stories, the fee would be \$210.00 per unit. For units spanning 11 through 20 stories, the fee would be \$280.00. Finally, the Division would charge \$350.00 to re-inspect units spanning 21 or more stories.

The Proposed Rulemaking would rename private residence elevators to special access elevators and the fee for re-inspection of this type of elevator would increase from \$110.00 per unit to \$140.00 per unit.

The fee for re-inspection of a screw-type unit would increase from \$110.00 per unit to \$140.00 per unit. The Proposed Rulemaking would also add the word "elevator" to Section 344.30(a)(16) to clarify that the Division is referring to screw-type elevators.

The fee for re-inspection of a wheelchair lift, whether the lift be a vertical lift (running straight up and down) or an incline lift (running at an angle), would increase from \$82.00 per unit to \$105.00 per unit.

The fee for re-inspection of a stairway chair lift would increase from \$55.00 per unit to \$70.00 per unit.

If an elevator is installed by variance, the fee for re-inspection would increase from \$110.00 per hour to \$140.00 per hour.

The fee for re-inspection of elevators or dumbwaiters with automatic transfer devices would increase from \$110.00 per unit to \$140.00 per unit.

The fee for re-inspection of an incline elevator would change from \$110.00 per hour to \$210.00 per unit.

The fee for the re-inspection of construction personnel hoists would increase from \$110.00 per hour to \$140.00 per hour.

The fee for re-inspection of a special purpose personnel elevator would change from \$110.00 per unit to \$140.00 per unit.

The Proposed Rulemaking would establish a new fee of \$140.00 for re-inspection of a rack and pinion elevator, a type of conveyance not previously addressed by Section 344.30.

The Proposed Rulemaking would establish a new fee of \$140.00 per unit for the re-inspection of vertical and inclined reciprocating conveyors, a class of conveyance not previously addressed by Section 344.30.

The Proposed Rulemaking would establish a new fee of \$140.00 per hour for the witnessing of periodic tests.

The Proposed Rulemaking would establish a new fee of \$1,120.00 per unit for re-inspecting automatic guided vehicles on guideways, a new classification of conveyance within the Division's jurisdiction.

Subsection (b).

The Proposed Rulemaking would increase the fee for the inspection of a new installation of any type of conveyance from \$110.00 per hour to \$210.00 per hour, or any fraction thereof.

Subsection (c).

The Proposed Rulemaking would increase the fee for the inspection of any alteration to a conveyance from \$110.00 per hour to \$210.00 per hour, or any fraction thereof. Also the Proposed Rulemaking would delete the definition of "major alteration", because the fee for alternations would apply to any alteration, and not just to "major alterations".

Subsection (d).

The Proposed Rulemaking would delete the partial list of types of "replacement inspections" in subsection (d) and instead would clarify that all replacement inspections required under Section 3001(b)(3) would carry a fee of \$140.00 per hour, or any fraction thereof (an increase of \$30.00).

Subsection (e).

The Proposed Rulemaking would increase the fee for field consultations from \$110.00 per hour to \$280.00 per hour, or any fraction thereof.

Moreover, if the distance to the job site were more than 50 miles from the District Elevator Unit Office, the actual travel time would be added to the inspection time for purposes of computing the total charge.

Subsection (f).

The Proposed Rulemaking would amend subsection (f) to reflect that the Division may charge a fee for an alteration inspection, even if a conveyance has already been inspected (and a fee paid for that inspection) during the same permit year. Under existing law, the Division would not charge an alteration inspection fee if a permit holder had already paid the fee for an inspection during the same permit year, even though the Division incurs costs conducting the inspection. The Division is proposing this amendment to recapture those costs which are lost under current law. In addition, the Proposed Rulemaking would increase the fee for determining whether applicable safety orders have been complied with from \$110.00 to \$140.00 per hour, or any fraction thereof.

Subsection (g).

The Proposed Rulemaking would amend Subsection (g) to clarify that the Division may recoup its cost in processing and mailing a permit, up to a maximum of \$15.00.

Subsection (h).

Subsection (h) would create several new fees to cover the Division's expenses in processing and issuing new classes of certifications created through recent legislation. The new classifications include: Certified Qualified Conveyance Company; Certified Qualified Conveyance Inspection Company; Certified Competent Conveyance Mechanic; Temporary Certified Competent Conveyance Mechanic; Emergency Certified Competent Elevator Mechanic; and Certified Qualified Conveyance Inspector.

Subsection (h) would also create a \$140.00 fee for renewal of a CQCC, CCCM, CQCIC or a CQCI certification, and a \$100.00 fee for administration of each certification examination. A \$35.00 fee would apply to the replacement of a certification.

Subsection (i).

Subsection (i) would establish fees for the issuance of permits for the erection, construction, or installation of conveyances, including the plan approval. Like the other new fees contemplated in the Proposed Rulemaking, the fees in Subsection (i) are calculated using the base hourly rate of \$140.00.

Subsection (j).

Subsection (j) would establish the fees for alteration permits, including plan review, based on the type and amount of work involved in reviewing and processing the permits. For example, the fee for one alteration or an alteration in combination with a second alteration would be \$280.00. The permit fee for similar alterations to similar conveyances in the same building would be \$140.00 per unit. The fee to permit a combination of more than two alterations would be \$560.00.

Subsection (k).

The fee for any change order review of plans would be \$140.00 per hour with a minimum charge of \$280.00.

Subsection (l).

The Proposed Rulemaking would merely re-letter former subdivision (h) as subdivision (l), to reflect the addition of new language.

MORE INFORMATION

The full text of the Proposed Rulemaking, and all information upon which the Proposed Rulemaking is based, including an initial statement of reasons for the Proposed Rulemaking, are available upon request. Inquiries concerning the Proposed Rulemaking, including questions regarding the substance of the Proposed Rulemaking, may be directed to:

Chris Grossgart
Staff Counsel III
Department of Industrial Relations
Division of Occupational Safety and Health
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
(415) 703-5080

Or

Michael Mason, Chief Counsel
Department of Industrial Relations
Division of Occupational Safety and Health
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
(415) 703-5080

The Division's rulemaking file for the Proposed Rulemaking is open for public inspection Monday through Friday, from 9:00 a.m. to 5:00 p.m., at the address shown above. Interested parties may obtain copies of the initial statement of reasons, the actual text of the Proposed Rulemaking, this notice, and the final statement of reasons, (once it has been prepared pursuant to Government Code section 11346.9(a),) from the Division representative named above, or from the Division's website (www.dir.ca.gov/DOSH).

COST OR SAVINGS OF THE PROPOSED REGULATIONS

Costs or Savings to State Agencies: No costs or saving to state agencies will result as a consequence of the Proposed Rulemaking. Although the Proposed Rulemaking establishes fees, the Division does not impose these fees on other state agencies.

Impact on Housing Costs: The Proposed Rulemaking will not significantly affect housing costs.

Impact on Businesses: The Division has made an initial determination that the Proposed Rulemaking will not result in a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Proposed Rulemaking will increase the cost of inspections about 27% per unit inspected. The impact will depend on the total number of conveyances for which a private person or business is responsible. This figure varies immensely and therefore the cost is described per unit.

Costs or Savings in Federal Funding to the State: The Proposed Rulemaking will not result in costs or savings in federal funding to the State.

Costs or Savings to Local Agencies or School Districts: No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate".

Other Nondiscretionary Costs or Savings Imposed on Local Agencies: The Proposed Rulemaking does not impose nondiscretionary costs on, or create savings for, local agencies.

DETERMINATION OF MANDATE

The Proposed Rulemaking does not impose a mandate on local agencies or school districts. The Division has determined that the Proposed Rulemaking does not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the Proposed Rulemaking does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within meaning of Section 6 of Article XIII of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The Proposed Rulemaking does not require any local agency to carry out the governmental function of providing services to the public.

EFFECT ON SMALL BUSINESSES

It has been determined that the Proposed Rulemaking may affect small businesses.

ASSESSMENT

The adoption of the Proposed Rulemaking will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONSIDERATION OF ALTERNATIVES

The Division must determine that no reasonable alternative considered by it, or that has been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 18. FRANCHISE TAX BOARD

NOTICE OF PROPOSED RULEMAKING

The Franchise Tax Board proposes to adopt the five proposed regulations after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Franchise Tax Board will not hold a public hearing unless requested by interested persons or their representatives at least 15 days before the close of the written comment period. Any request for a public hearing should be submitted to the officer named below.

WRITTEN COMMENT PERIOD

Any interested persons or their representatives may submit written comments to the officer named below. Written comments will be accepted until 5:00 p.m., January 5, 2005. The Franchise Tax Board will consider all relevant matters presented before the proposed regulatory action is taken.

AUTHORITY AND REFERENCE

Revenue and Taxation Code section 19503 authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), Part 10.7 (commencing with Section 21001) and Part 11 (commencing with Section 23001) of the Revenue and Taxation Code. This regulatory authority is made applicable to Part 10.5 by Revenue and Taxation Code section 20642. The proposed

regulatory action implements, interprets and makes specific Revenue and Taxation Code sections 20505, 20511, 20561, and 20563, which are included in Part 10.5 of the Revenue and Taxation Code.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Regulation 20501

The Franchise Tax Board proposes to adopt California Code of Regulations, title 18, section 20501.

This proposed regulation will establish the definition of the term “medical incapacity” for purposes of allowing a claimant under the Senior Citizens Homeowners and Renters Property Tax Assistance Law (referred to hereinafter as the “HRA Law”; Revenue and Taxation Code sections 20501 through 20564) to file a claim under this program outside the generally established filing period if that claimant suffered from “medical incapacity” during that established filing period. The proposed regulation defines a person who suffers “medical incapacity” as an individual being unable to attend to his or her own personal needs and activities of daily life, including but not limited to, matters such as personal hygiene and nutritional needs.

Regulation 20502

The Franchise Tax Board proposes to adopt California Code of Regulations, title 18, section 20502.

This proposed regulation will establish the definition of the term “substantially equivalent to property taxes” for purposes of allowing a claimant under the provisions of the HRA Law to be eligible for assistance when he or she lives in a property that is exempt from property tax but pays an amount in lieu of property tax that is “. . . substantially equivalent to property taxes paid on properties of comparable market value”. (See Rev. & Tax. Code, § 20509, subd. (a).)

Under this proposed regulation, the term “substantially equivalent to property taxes” is defined in various other tax statutes defining “substantially equivalent” and a published opinion of the State Board of Equalization as payments in lieu of property taxes that are equal to at least 80 percent of the amount of property taxes assessed on a property of comparable assessed value.

Regulation 20503

The Franchise Tax Board proposes to adopt California Code of Regulations, title 18, section 20503.

As this program is based on the assessment of property tax, the Franchise Tax Board must determine both that property tax was assessed and the amount

thereof in the case of a homeowner claimant. This proposed regulation clarifies under what circumstances the homeowner claimant under the HRA Law will be required to provide copies of the property tax bill applicable to the property in which they resided during the qualifying year.

Regulation 20504

The Franchise Tax Board proposes to adopt California Code of Regulations, title 18, section 20504.

For purposes of homeowner and renter assistance eligibility, “disabled” is defined to mean being unable to engage in any substantial gainful activity because of a medically recognized physical or mental impairment, which is expected to last for a period of not less than 12 consecutive months. Under this definition, impairment must be so severe that the claimant is not only unable to perform his or her previous type of work, but cannot engage in any other type of gainful activity, considering the claimant’s age, education and work experience (Rev. & Tax. Code, § 20505; Welf. & Inst. Code, § 12050).

The referenced standard is the standard used by the Social Security Administration to determine “disability,” as defined in section 1614(a) of Part A of Title XVI of the Social Security Act. The proposed regulation designates the three types of proof in the form of notices from the Social Security Administration, which would be readily available to a claimant if they were disabled pursuant to that definition. The fourth, documentation accepted by a local, state or federal agency to support its determination of disability.

The proposed regulation is designed to provide the information needed by the Franchise Tax Board to verify that the claimant is eligible for the assistance in the most accurate and least invasive manner possible.

Regulation 20505

The Franchise Tax Board proposes to adopt California Code of Regulations, title 18, section 20505.

As noted in proposed regulations 20501 through 20504, there are various types of documentation that must be forwarded to the Franchise Tax Board with a claim form in order for the claim to be allowed. Some of the documentation required by these regulations may not be in the possession of the claimants or the claimants may not be aware that such documentation is required.

This proposed regulation is designed to provide notice to a claimant together with a reasonable opportunity for claimants to provide the additional documentation needed in a timely manner before the claim will be denied by the Franchise Tax Board. In general, the Franchise Tax Board intends that a

“reasonable” opportunity within the meaning of this regulation shall be specified in communications with claimants, which communications shall generally provide for response periods between 30 and 60 days from the date the claimant is notified that additional information is required.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Franchise Tax Board has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: None.

Other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings in Federal funding to the State: None.

The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

Cost impacts on a representative, private person, or business: Because the proposed regulations address only the definition of terms as utilized by the Legislature in creating this program and the sending of notices regarding those definitions, the Franchise Tax Board is not aware of any cost impacts that a representative, private person, or business would necessarily incur in reasonable compliance with the proposed action.

Effect on the creation or elimination of jobs in the state: None

Effect on the creation of new businesses or elimination of existing businesses within the state: None

Effect on the expansion of businesses currently doing business within the state: None

Significant effect on housing costs: None.

Effect on small business: None. The regulation affects small businesses in the same manner as it affects individuals and other businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Franchise Tax Board must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of the Franchise Tax Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

The Franchise Tax Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Franchise Tax Board has prepared an initial statement of reasons for the proposed regulatory action. The express terms of the proposed regulatory action, the initial statement of reasons for the regulatory action, and all the information upon which the proposed regulatory action is based are available upon request from the officer named below.

CHANGE OR MODIFICATION OF ACTIONS

The Franchise Tax Board may adopt the proposed regulatory action after consideration of any comments received during the comment period. Government Code section 15702, subdivision (b), provides for consideration by the three-member Board of any proposed regulatory action, if any person makes such a request in writing. If a written request is received, the three-member Board will consider the proposed regulatory action prior to adoption.

The regulation(s) may also be adopted with modifications if the changes are nonsubstantive or the resulting regulation(s) is sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulation(s) as modified could result from that originally proposed. The text of the regulation(s) as modified will be made available to the public at least 15 days prior to the date on which the regulation(s) is adopted. Requests for copies of any modified regulation(s) should be sent to the attention of the officer named below.

AVAILABILITY OF FINAL STATEMENT OF REASONS

When the final statement of reasons is available, it can be obtained by contacting the officer named below, or by accessing the Franchise Tax Board's website at <http://www.ftb.ca.gov/>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

This notice, the initial statement of reasons, and the express terms of the proposed regulations are also available at the Franchise Tax Board's website at <http://www.ftb.ca.gov/>.

ADDITIONAL COMMENTS

If a hearing is held, the hearing room will be accessible to persons with physical disabilities. Any person who is in need of a language interpreter, including sign language, should contact the officer

named below at least two weeks prior to any scheduled hearing so that the services of an interpreter may be arranged.

CONTACT

All inquires concerning this notice or any request for a public hearing should be directed to Colleen Berwick at the Franchise Tax Board, Legal Department, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Tel.: (916) 845-3306; Fax: (916) 845-3648; E-Mail: colleen.berwick@ftb.ca.gov, or the designated backup, Suzanne Small; Tel.: (916) 845-3066; Fax: (916) 845-3648; E-Mail: suzanne.small@ftb.ca.gov. In addition, all questions on the substance of the proposed regulations can be directed to Suzanne Small.

TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

NOTICE IS HEREBY GIVEN that the Department of Housing and Community Development ("Department") proposes to formally amend regulations, which govern implementation of the Community Development Block Grant Program (CDBG). The existing regulations are codified in Title 25, Subchapter 2 (commencing with section 7050) of the California Code of Regulations.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action by the Department. The written comment period begins November 19, 2004 and closes at 5:00 p.m. on January 3, 2005. The Department will consider comments received during this timeframe. Please address your comments to Allen Jones, Program Manager Community Affairs Division, P.O. Box 952054, Sacramento, California 94252-2054. Comments can be sent via fax transmittal to (916) 263-0466, attention: Allen Jones, CDBG.

PUBLIC HEARINGS

A public hearing will be held in Sacramento on January 3, 2005 beginning at 1:00 pm at the Department's, Headquarters, located at 1800 3rd Street, Room 183, Sacramento, CA. Any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest below. The Department re-

quests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimonies at the hearings.

AUTHORITY AND REFERENCE

HCD is conducting this rulemaking activity pursuant to the authority provided by Health and Safety Code Sections 50406(h) and (n) and 24 CFR 570.489, and to implement, interpret, or make specific Sections 50407 and 50825 of the Health and Safety Code and the Federal Omnibus Budget Reconciliation Act of 1981.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 7056—This section is being amended to include performance problems for program income as a matter that has to be resolved prior to submittal of an application. In addition, amendments to add disencumbrance as an additional action that can resolve a performance problem. And amendments to reduce the term of standard single year grant awards from 30 months to 24 months and to clarify the standard contract periods for multi-year grant awards (up to three years of funding). Lastly, this section is being revised to require grantees to submit their program guidelines into state staff for review and approval.

Section 7060—This section is proposed to allow applicants to access the full amount of grant funds available while having a multi-year funding award in place.

Section 7062.1—This amendment will move the funding cap waiving date. By moving the waiver date to earlier in the year, the state CDBG program will be able to award funds earlier to grantees with infrastructure requests and they in turn will be able to spend those funds more quickly. This change will facilitate the funding of larger ED infrastructure projects earlier in the funding year and allow for funds to be expended earlier such that HUD expenditure milestones can be met.

Section 7064—This section is being amended to allow applicants to secure funds for activities over a period of three annual funding awards instead of just two.

Section 7066—This section is being amended to be consistent with Section 7064, which allows for multi-year funding of programs and projects, and to clarify how disencumbrances can be used to maintain eligibility for funding.

Section 7078.4—This section is being amended to bring the program milestones for each of the eligible activities in line with the new reduced State CDBG Program contract period for single year awards of twenty four (24) months, per revision of Section 7056.

IMPACT OF PROPOSED REGULATIONS

The State of California receives money from the U.S. Department of Housing and Urban Development (hereinafter "HUD") to make grants to units of general local government, which are too small to receive an entitlement amount directly from HUD. These funds can be used for a wide variety of eligible activities, including housing rehabilitation, housing new construction, housing acquisition, public works, community facilities, public services and economic development as long as the recipients comply with a comprehensive set of requirements prescribed by federal law and these State regulations.

EFFECT ON SMALL BUSINESS

The proposed regulations do not affect small businesses, because the regulations do not mandate or require small businesses to take any prescribed action, and it has no financial impact on small businesses.

LOCAL MANDATE

The proposed regulatory activity will not impose a mandate on local agencies or school districts. Participation in the program is voluntary.

FISCAL IMPACT

This regulatory activity does not impose any cost on any local agency or school district that is required to be reimbursed under Part 7 (commencing with sec. 17500) of Division 4 of the Government Code; neither does the regulatory activity result in any other nondiscretionary cost or savings imposed on local agencies or in any cost or savings to any state agency (other than the Department) or in federal funding to the state. There is no impact on federal funding to the state. Participation is voluntary, not mandatory.

EFFECT ON HOUSING COSTS

The Department has determined that the proposed action has no significant impact on housing costs in California.

**INITIAL DETERMINATION OF STATEWIDE
ADVERSE ECONOMIC IMPACT DIRECTLY
EFFECTING BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT STATEMENT

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses

within California; or the expansion of businesses currently operating in California. In any case, participation in the program would be voluntary.

**STATEMENT OF POTENTIAL COSTS IMPACT
ON PRIVATE PERSONS AND BUSINESS
DIRECTLY AFFECTED**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. While private businesses (nonprofits) and individuals are eligible to receive program funds under the program, participation is voluntary.

CONSIDERATION OF ALTERNATIVES

The Department of Housing and Community Development must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF TEXT OF
PROPOSED REGULATIONS AND
STATEMENT OF REASONS**

The text of the proposed regulations is available upon request, along with the Initial Statement of Reasons, prepared by the Department, which provides the reasons for the proposals. All information the Department is considering as a basis for this proposal is maintained in a rulemaking file, which is available for inspection at the address noted below. Copies can be obtained by contacting Peter Solomon at the address and telephone number noted below.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text—with changes clearly indicated—available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Peter Solomon at the address indicated below. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named below.

CONTACT INFORMATION PERSON

HCD: **Allen Jones**
(916) 263-0466

HCD Back-Up: **Lenora Frazier**
(916) 323-7288

HCD Address: **State Department of Housing
and Community Development
1800 Third Street, Room 390
Sacramento, California 95814**

HCD Website: Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations may be accessed through our website at www.hcd.ca.gov

HCD Facsimile No: **(916) 323-6016**

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. Direct inquiries concerning the substance of the proposed rulemaking action and any requests for the documents noted above should be made to:

Allen Jones
**State Department of Housing and
Community Development**
Division of Community Affairs—CDBG
Gateway Oaks Field Office
2710 Gateway Oaks
North Building, Suite 190
Sacramento, California 95833
Telephone (916) 263-0466
Fax (916) 323-6016
AJones@hcd.ca.gov

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of

State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

ATCM Transport Refrigeration Units

The regulatory action establishes the “airborne toxic control measure for in-use diesel-fueled Transport Refrigeration Units (TRU) and TRU generator sets, and facilities where TRUs operate.”

Title 13

California Code of Regulations

ADOPT : 2477

Filed 11/10/04

Effective 12/10/04

Agency Contact:

Michael L. Terris

(916) 327-2032

AIR RESOURCES BOARD

ATCM Stationary Diesel Engines

This rulemaking action establishes an airborne toxic control measure to reduce diesel particulate matter and criteria pollutant emissions from stationary diesel-fueled compression ignition engines. It addresses fuel and fuel additives, emission standards, operating requirements, recordkeeping, reporting, monitoring, compliance schedules, emissions data, test methods, and exemptions. In 1998 the ARB identified diesel particulate matter emissions from diesel-fueled engines as a toxic air contaminant. The ARB adopted the Diesel Risk Reduction Plan in 2000, which established the goal of reducing emissions from virtually all in-use diesel engines by the year 2010. The methods for achieving the goals in the plan include new, more stringent standards for new diesel engines, the implementation of low-sulfur diesel fuel, and the use of diesel emission control strategies for in-use engines and equipment. Pursuant to statute an airborne toxic control measure using the best available control technology shall be employed to reduce the public’s exposure to diesel particulate matter.

Title 17

California Code of Regulations

ADOPT : 93115

Filed 11/08/04

Effective 12/08/04

Agency Contact: Floyd Vergara

(916) 322-2884

BOARD OF CORRECTIONS

DNA Collection—Use of Reasonable Force

This regulatory action establishes guidelines, pursuant to Penal Code section 298.1, for the use of reasonable force in the collection of DNA samples or specimens from inmates in local detention facilities.

Title 15

California Code of Regulations

ADOPT : 1059

Filed 11/05/04
Effective 12/05/04
Agency Contact: Jerry Read (916) 445-9435

BOARD OF EDUCATION

Mathematics and Reading Professional Development Program

In this regulatory action, the Board of Education amends regulations pertaining to the Mathematics and Reading Professional Development Program which provides State funding to local educational agencies for the training of certain teachers, paraprofessionals, and instructional aides.

Title 5
California Code of Regulations
AMEND : 11981, 11985
Filed 11/04/04
Effective 11/04/04
Agency Contact: Debra Strain (916) 319-0641

BOARD OF EDUCATION

School Bus Passenger Restraint System

This action adopts a regulation that requires instruction of pupils concerning the use of school bus seatbelts, and the use of such seatbelts when a school bus is in motion.

Title 5
California Code of Regulations
ADOPT : 14105
Filed 11/09/04
Effective 11/09/04
Agency Contact: Debra Strain (916) 319-0641

BOARD OF EQUALIZATION

Mobilehomes and Commercial Coaches

The Board of Equalization (Board) is amending the captioned section entitled "Mobilehomes and Commercial Coaches." The Board is correcting a cross-reference in section 1610.2(b)(3)(B). The cross-reference is section 1668(e) which was renumbered in File No. 02-0305-04S to section 1668(h).

Title 18
California Code of Regulations
AMEND : 1610.2
Filed 11/04/04
Effective 11/04/04
Agency Contact: Diane G. Olson (916) 322-9569

BUREAU OF NATUROPATHIC MEDICINE

Introduction

This emergency regulatory action implements and makes specific the Naturopathic Doctors Act.

Title 16
California Code of Regulations
ADOPT : 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4216, 4218, 4220, 4222, 4224, 4226, 4230, 4232, 4234, 4236, 4240, 4242, 4244, 4246, 4248,

4250, 4252, 4254, 4256, 4258, 4260, 4262, 4264, 4266, 4268

Filed 11/08/04
Effective 11/08/04
Agency Contact:
Kathy McKeever (916) 324-0794

CALIFORNIA GAMBLING CONTROL COMMISSION

Emergency Preparedness and Evacuation Plans for Cardrooms

This rulemaking action amends and makes permanent an emergency regulation that requires the owner of a card room gambling establishment to develop and implement an emergency preparedness and evacuation plan to protect employees and patrons in the event of a natural disaster, critical event, or other emergency. The action also establishes procedures for review of plans. Failure to develop a suitable plan may result in denial of an application for renewal, suspension, or revocation of a license, and a civil penalty.

Title 4
California Code of Regulations
ADOPT : 12360, 12370
Filed 11/08/04
Effective 11/08/04
Agency Contact:
Heather Cline-Hoganson (916) 274-6328

DEPARTMENT OF FOOD AND AGRICULTURE

Assessments for Control of Beet Leafhopper

In this regulatory action, the Department of Food and Agriculture amends its schedule of the assessment rates applicable to the funding of the beet leafhopper control program provided under Food and Agricultural Code sections 6031 through 6043.

Title 3
California Code of Regulations
AMEND : 3601(g)
Filed 11/10/04
Effective 11/10/04
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF INDUSTRIAL RELATIONS

Alternative Composit Deposit

This is a readopt of a prior emergency regulatory action (OAL file no. 04-0624-02E) dealing with the requirements and procedures for an alternative composite deposit posted by the Self Insurers' Security Fund rather than each self insured employer posting a deposit individually to secure workers' compensation liabilities.

Title 8
California Code of Regulations
AMEND : 15220, 15220.1, 15220.3, 15220.4

Filed 11/03/04
Effective 11/03/04
Agency Contact: Mark Johnson (916) 483-3392

DEPARTMENT OF MANAGED HEALTH CARE**Assessment of Administrative Penalties**

This rulemaking action requires the Director when assessing administrative penalties against a health plan to determine the appropriate amount of a penalty based upon one or more of the listed factors, lists eleven factors, and provides that factors upon which a penalty may be based include, but are not limited to the listed factors.

Title 28
California Code of Regulations
ADOPT : 1300.86
Filed 11/08/04
Effective 12/08/04
Agency Contact:
Elaine Paniewski (916) 324-9024

DEPARTMENT OF PESTICIDE REGULATION**Methyl Bromide Field Fumigation**

This is the certification of compliance, with amendments, for an emergency action dating back to September, 2002, that repealed and readopted the regulations on methyl bromide field fumigation.

Title 3
California Code of Regulations
ADOPT : 6450, 6450.1, 6450.2, 6450.3, 6784
AMEND : 6000, REPEAL : 6450, 6450.1, 6450.2, 6250.3, 6784
Filed 11/03/04
Effective 11/03/04
Agency Contact:
Linda Irokawa-Otani (916) 445-3991

DEPARTMENT OF SOCIAL SERVICES**CCL-Transitional Housing Placement Program**

AB 427 (Chapter 125, Statutes of 2001) provides for the licensing of transitional housing placement programs which are intended to provide opportunities for youth to develop independent living skills and employment skills improving their chances of success in society as adults living independently. This filing is a certificate of compliance for an emergency regulatory action which implemented AB 427 by specifying the requirements for transitional housing placement programs.

Title 22, MPP
California Code of Regulations
ADOPT : 86000, 86001, 86005, 86009, 86010, 86018, 86020, 86022, 86023, 86024, 86028, 86030.5, 86031.5, 86036, 86044, 86044.5, 86045, 86061, 86064, 86065, 86065.2, 86065.3, 86065.4, 86065.5, 86066, 86068.1, 86068.2, 86068.3, 86068.4, 86070, 86072, 86073, 8

Filed 11/04/04
Effective 11/04/04
Agency Contact:
Maureen Miyamura (916) 653-1925

**EMPLOYMENT DEVELOPMENT DEPARTMENT
Voluntary Plans SB 467**

In this regulatory action, the Employment Development Department adopts and amends regulations pertaining to "voluntary plans" for employee disability insurance to implement Senate Bill 467 (Statutes of 2002, Chapter 52).

Title 22
California Code of Regulations
ADOPT : 3261-1, 3262-2 AMEND : 3254-3, 3258-1, 3258-2, 3260-1, 3262-1
Filed 11/09/04
Effective 12/09/04
Agency Contact: Laura Colozzi (916) 654-7712

FAIR POLITICAL PRACTICES COMMISSION**Personal Loans**

The Fair Political Practices Commission is amending section 18530.8, title 2, California Code of Regulations, pertaining to "personal loans."

Title 2
California Code of Regulations
AMEND : 18530.8
Filed 11/09/04
Effective 11/09/04
Agency Contact:
Natalie Bocanegra (916) 322-5660

FISH AND GAME COMMISSION**Salton Sea Sport Fishing Regulations**

This regulatory action reduces the harvest limit of corvina to two per day, and establishes the harvest limit of croaker and sargo to six of each species per day for sport fishing in the Salton Sea.

Title 14
California Code of Regulations
ADOPT : 5.26 AMEND : 4.15, 5.25
Filed 11/08/04
Effective 12/08/04
Agency Contact: Sherrie Koell (916) 653-4899

FISH AND GAME COMMISSION**Herring and Herring Eggs on Kelp**

This regulatory action reduces the permitted take of herring and herring eggs on kelp for commercial purposes.

Title 14
California Code of Regulations
AMEND : 163, 164
Filed 11/03/04
Effective 11/03/04
Agency Contact: Jon Snellstrom (916) 653-4899

FISH AND GAME COMMISSION

Ecological Reserves

This action adds ten new ecological reserves to the current listing of ecological reserves declared by the Fish and Game Commission.

Title 14

California Code of Regulations

AMEND : 630

Filed 11/10/04

Effective 11/10/04

Agency Contact: Jon Snellstrom (916) 653-4899

FISH AND GAME COMMISSION

State and Federal Areas

This action amends the public use regulations for various state and federal wildlife areas.

Title 14

California Code of Regulations

AMEND : 550, 551, 552

Filed 11/04/04

Effective 11/04/04

Agency Contact: Jon Snellstrom (916) 653-4899

FISH AND GAME COMMISSION

Waterfowl

This action sets the seasons, and bag and possession limits for waterfowl hunting.

Title 14

California Code of Regulations

AMEND : 502

Filed 11/04/04

Effective 11/04/04

Agency Contact: Jon Snellstrom (916) 653-4899

OCCUPATIONAL SAFETY AND HEALTH

STANDARDS BOARD

Hot Work Permits

This action amends existing Petroleum Safety Orders by clarifying the safety precautions an employer must take before introducing a source of ignition into a workspace.

Title 8

California Code of Regulations

AMEND : 6777

Filed 11/09/04

Effective 12/09/04

Agency Contact: Marley Hart (916) 274-5721

OCCUPATIONAL SAFETY AND HEALTH

STANDARDS BOARD

General Requirements for Excavations

This nonsubstantive action would clarify requirements for fall protection in excavations.

Title 8

California Code of Regulations

AMEND : 1541(l)(1)

Filed 11/03/04

Effective 11/03/04

Agency Contact: Marley Hart (916) 274-5721

STATE ALLOCATION BOARD

Leroy F. Greene School Facilities Act of 1998—

SB 575 Adjustments

This regulatory action adjusts the per-pupil grant for new construction and modernization projects pursuant to the Leroy F. Greene School Facility Act of 1998.

Title 2

California Code of Regulations

AMEND : 1859.71.2, 1859.78.4

Filed 11/04/04

Effective 11/04/04

Agency Contact: Lisa Jones (916) 322-1043

STATE ALLOCATION BOARD

Leroy F. Green School Facilities Act of 1998—

Charter School/SB 15

This is the certification of compliance for an emergency action that amended standards for eligibility, advance funding, and maximum amounts available included in the charter school facilities program regulations to conform with the provisions of Chapter 587, Statutes of 2003, and delayed the opening of the filing period to allow applicants sufficient time to act.

Title 2

California Code of Regulations

ADOPT : 1859.163.1, 1859.163.2, 1859.163.3, 1859.164.2, 1859.167.1 AMEND : 1859.2, 1859.145, 1859.145.1, 189.160, 1859.161, 1859.162, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.167, 1859.168, 1859.171

Filed 11/10/04

Effective 11/10/04

Agency Contact: Robert Young (916) 445-0083

STATE MINING AND GEOLOGY BOARD

Administrative Fees

Subdivision (e) of Public Resources Code section 2207 provides that the State Mining and Geology Board “ . . . when acting as lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).” This regulatory action establishes the amount and due date of such administrative fee.

Title 14

California Code of Regulations

ADOPT : 3696.5

Filed 11/08/04

Effective 12/08/04

Agency Contact:

John G. Parrish

(916) 322-1082

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN JUNE 23, 2004
TO NOVEMBER 10, 2004**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

- 10/13/04 ADOPT: 1015, 1019, 1048, 1050
AMEND: 1000, 1002, 1004, 1006, 1008,
1012, 1014, 1016, 1018, 1020, 1022,
1024, 1026, 1027, 1028, 1030, 1032,
1034, 1038, 1040, 1042, 1044, 1046
- 08/12/04 ADOPT: 1396 AMEND: 1314, 1321,
1323, 1324, 1334, 1354, 1390, 1392,
REPEAL: 1332

Title 2

- 11/10/04 ADOPT: 1859.163.1, 1859.163.2,
1859.163.3, 1859.164.2, 1859.167.1
AMEND: 1859.2, 1859.145, 1859.145.1,
189.160, 1859.161, 1859.162, 1859.163,
1859.164, 1859.164.1, 1859.165,
1859.166, 1859.167, 1859.168, 1859.171
- 11/09/04 AMEND: 18530.8
- 11/04/04 AMEND: 1859.71.2, 1859.78.4
- 11/02/04 AMEND: 1859.51, 1859.105
- 11/02/04 ADOPT: 1859.123.1 AMEND: 1859.2,
1859.73.1, 1859.81, 1859.83, 1859.90,
1859.120, 1859.121, 1859.122,
1859.122.1, 1859.122.2, 1859.123,
1859.124, 1859.124.1, 1859.125,
1859.125.1, 1859.126, 1859.127,
1859.129, 1859.130
- 10/26/04 ADOPT: 18361.1, 18361.2, 18361.3,
18361.4, 18361.5, 18361.6, 18361.7,
18361.8, AMEND: 18361.5, 18406,
18450.4, 18702.2, 18702.5, 18740,
18747, 18754, 18951 REPEAL: 18361
- 09/29/04 ADOPT: 20107
- 09/23/04 AMEND: 18401, 18421.1
- 09/23/04 ADOPT: 588, 588.1, 588.2, 588.3, 588.4,
588.5, 588.6, 588.7, 588.8, 588.9,
5881.10
- 09/15/04 ADOPT: 599.511 AMEND: 599.500(t)
- 09/10/04 AMEND: 54300
- 09/09/04 AMEND: 18704.2
- 08/31/04 ADOPT: 599.517
- 08/20/04 ADOPT: 586, 586.1, 586.2

- 08/10/04 ADOPT: 1896, 1896.2, 1896.4, 1896.6,
1896.10, 1896.12, 1896.14, 1896.16,
1896.18, 1896.20, 1896.22 REPEAL:
1896, 1896.2, 1896.4, 1896.6, 1896.8,
1896.10, 1896.12, 1896.14, 1896.16,
1896.18, 1896.20
- 08/09/04 AMEND: 599.508
- 08/09/04 ADOPT: 1859.77.3 AMEND: 1859.2,
1859.77.2
- 08/04/04 AMEND: 599.515(e)
- 07/30/04 ADOPT: 18531.10
- 07/28/04 ADOPT: 1172.90, 1172.92
- 07/27/04 AMEND: 18404.1
- 07/26/04 ADOPT: 18530.9 AMEND: 18531.5
- 07/22/04 ADOPT: 1859.51.1, 1859.70.2 AMEND:
1859.2, 1859.51, 1859.70, 1859.103
- 07/02/04 AMEND: 1859.2, 1859.145, 1859.145.1
- 06/28/04 ADOPT: 599.516

Title 3

- 11/10/04 AMEND: 3601(g)
- 11/03/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3,
6784 AMEND: 6000, REPEAL: 6450,
6450.1, 6450.2, 6250.3, 6784
- 10/25/04 AMEND: 3700(c)
- 10/14/04 AMEND: 3423(b)
- 10/13/04 AMEND: 3700(b)
- 10/06/04 ADOPT: 2042, 2100, 2101, 2102
- 10/06/04 AMEND: 3877(a), 3883, 3885(a)(b),
4603(f) REPEAL: 3902
- 10/04/04 AMEND: 1280.2
- 09/22/04 AMEND: 3430(b)
- 09/20/04 AMEND: 3700
- 09/09/04 AMEND: 6502
- 09/08/04 AMEND: 3423(b)
- 09/08/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3,
6784 AMEND: 6000 REPEAL: 6450,
6450.1, 6450.2 6450.3, 6784
- 09/02/04 AMEND: 3700(b)(c)
- 08/19/04 AMEND: 3700(c)
- 08/10/04 ADOPT: 1472.8 AMEND: 1472.5
- 08/05/04 AMEND: 3962(a)
- 07/09/04 AMEND: 3423(b)
- 07/06/04 AMEND: 3430(b)
- 07/06/04 AMEND: 3700(c)
- 07/02/04 AMEND: 3558(a)
- 06/25/04 AMEND: 1380.19(p), 1442.7

Title 4

- 11/08/04 ADOPT: 12360, 12370
- 10/18/04 ADOPT: 12270, 12271, 12272
- 10/14/04 AMEND: 1402, 1471, 2056, 2101, 2102,
2103
- 10/13/04 AMEND: 1371
- 09/23/04 ADOPT: 144
- 09/20/04 AMEND: 12101, 12122, 12250

08/17/04 ADOPT: 12400, 12401, 12402, 12403, 12404, 12405, 12406
 07/19/04 ADOPT: 10163, 10164 AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162
 07/19/04 ADOPT: 4147, 4148
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